

**ESSAYS ON THE
PUNISHMENT
OF DEATH**

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Essays on the Punishment of Death by Charles Spear

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CHARLES SPEAR

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PUNISHMENT OF DEATH.

BY CHARLES SPEAR,

AUTHOR OF 'STILES OF JERUSALEM;' 'ESSAYS ON IMPRISONMENT FOR DEBT,' &c.

I shall ask for the abolition of the Penalty of Death until I have the infallibility of human judgment demonstrated to me. The Punishment of Death has always inspired me with feelings of horror since the execrable use made of it during the former Revolution.

LAFAYETTE.

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THIS VOLUME
IS
AFFECTIONATELY DEDICATED
TO
THOMAS C. UPHAM,
PROFESSOR OF MENTAL AND MORAL PHILOSOPHY IN BOWDOIN
COLLEGE, ME.,
AS
A TOKEN OF RESPECT AND ESTEEM
FOR HIS
SYMPATHY FOR THE CRIMINAL.

P R E F A C E .

THEODORIC THE GREAT, who was at the head of the Gothic monarchy in Italy, is said to have governed his subjects by the following excellent maxim :—' It is the duty of a benign prince to be disposed to *prevent*, rather than to *punish* offences.' Had all rulers been governed by such a principle, there would have been no necessity for works on the subject of the Punishment of Death. Crimes would have ceased, and the scaffold would long since have passed into oblivion. But few have understood the principle, and fewer still have carried it into practical operation. Such being the condition of society, the author has felt impelled, from a sense of duty, to complete a work expressly devoted to a consideration of the penalty of death. For years, he has thought deeply upon it. A few months ago, by the advice of a few judicious friends, he was induced to take up the subject anew. The labor, at first, appeared somewhat easy to be accomplished, but, on a closer investigation, the subject was found to embrace an immense field, and to lie at the very foundation of the whole social fabric; to be, in fact, the very starting point for every moral reform. For, of what avail will it be for any community to expect to prosper, unless the Sacredness of Human Life is first admitted? Our object has been to establish this great truth, that the criminal, though debased, yet, is a man and a brother; and, as such, deserves human sympathy. We have sustained this by argument, and by a variety of incidents, all showing that there is a chord in every soul that can be made to vibrate.

The work is divided into two parts. One, containing facts and arguments drawn from history and observation; the other, founded on the Scriptures.

The author intended to have presented other subjects which seem to have a close connection with that of the Punishment of Death. He actually sent forth a prospectus, in the fifteenth edition of his work on the 'Titles of Jesus,' to that effect. Moral Insanity; the Treatment of Prisoners; the Degeneracy of the Press, respecting Criminal Reports; all these, and other kindred topics, presented their claims. But he found it impossible, in a work on so limited a plan, to do justice to either; especially Moral Insanity; a subject involving many facts, and leading to a series of metaphysical reasoning, and to an investigation of a variety of mental phenomena. Several friends advised him to direct his whole effort, first, to the abolition of the Punishment of Death; then, in some future labor, to consider such other topics as seemed most intimately connected.

During our labor, we have been cheered and animated by a few choice friends, to whom we feel largely indebted. Among them, we must place ROBERT RANTOUL, Esq. On learning our intention to write a work on this subject, he kindly offered his aid, and sent us many valuable English publications. All who know anything of the history of legislation in Massachusetts, know how much the public are indebted to him for his invaluable reports.

We have also freely availed ourselves of the labors of J. O'SULLIVAN, Esq., of New York. He has produced one of the most valuable reports ever issued from any legislative body.

We cannot express ourselves too warmly to another friend, for the incitements received on this subject, as well as on another, somewhat allied—that of war. During two journeys to Maine, we have had the pleasure of interviews with PROFESSOR UPHAM, the true friend of humanity, whether debased by Crime, trodden down by Slavery, or crushed by

War. Indeed, we know not that we should have brought out our work at the present time, had it not been for his encouragement. In our progress, we have frequently availed ourselves of the labors of his mind, which are beautifully embodied in his *Manual of Peace*, a work which, for beauty of style, we have never seen surpassed.

In writing the essay, entitled, 'Dangerous to Liberty,' we were peculiarly fortunate in meeting with a most thrilling speech, by O'CONNELL, the 'great agitator,' delivered before the London Society for the Diffusion of Information on the subject of Capital Punishment. His voice came to us in solemn tones, across the Atlantic; for, by a singular coincidence, at the very time when we were referring to his speech, he was arraigned upon charges (which occupied seventy hours in reading) for treason; a capital offence in every government on earth; an offence considered the most heinous and aggravating of all others, by politicians; an offence which seems to hold about the same rank among them that heresy does among religionists. No crime is more indefinite. For no one has blood flowed more freely. How finely is this melancholy truth brought out, in reference to the French Revolution, by Lafayette, in the motto upon our title page! The death-penalty has fallen heavily upon the hero, the martyr, and the scholar! How many have fallen beneath the bloody axe! With minds far-reaching beyond their age, misunderstood and unappreciated, they have perished. And what a melancholy chapter might be written on the fate of human discoverers! And what a brilliant chapter, too; all sparkling with facts in human progress!

In the course of our examination of the Scriptures, we spent much time in bringing out the number of offences in the Code of Moses. In the wide range which critics have taken, we found no one who had collated and arranged the offences with reference to their number. Some may think that we have gone too far. An objection may be raised that